

Karla M. Lewis
kmlmanagementsystems@verizon.net
86 R St NW
Washington, DC 20001
Cell (202) 607-7221
November 13, 2012

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Mr. Anthony J. Hood, Chairman
D.C. Zoning Commission
One Judiciary Square
441 4th St N.W.
Second Floor
Washington DC 20001

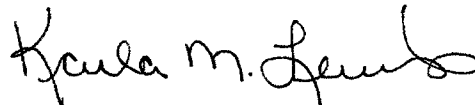
**Re: Z.C. Case No. 10-14 (Big Bear Cafe)
Map Amendment for 1700 First Street NW, Square 3103, Lot 800
The Lewis Party's Post Hearing Submission: Response to Progress Report**

Dear Chairman Hood and the Members of the Commission:

As requested by the Commission at its public meeting on October 15, 2012, the attached is the Lewis Party's response to the Progress Report submitted by the Applicant on November 6, 2012.

If you have any questions or require any further details with regards to the Lewis Party's response, please do not hesitate to contact me.

Sincerely,



Karla M. Lewis

ZONING COMMISSION
District of Columbia
CASE NO. 10-14
EXHIBIT NO. 55
District of Columbia
CASE NO. 10-14
EXHIBIT NO. 55

Lewis Party's Response to Progress Report

11/13/2012

Big Bear Cafe

ZC Case #10-14

1700 First St NW

As requested by the Zoning Commission at the public meeting on October 15, 2012, I, Karla Lewis, met with Mr. Davenport on October 28, 2012 to address the concerns raised by the Lewis Party.

First and foremost, our party is appreciative of the opportunity to express our real concerns and, in particular, this Committee's support and promotion of that recourse. As a result, Mr. Davenport has begun to address some of quick hit and basic issues that affect our quality of living and, of course, we appreciate this since it's been long awaited. Our concern remains that he sustains these improvements, especially once this committee makes its decision and this process is over. We want to ensure that his words to this body and to us remain consistent as we have already expressed concern, and the Commission has had a chance to witness, about Mr. Davenport trustworthiness¹. We look forward to continue our work with Mr. Davenport on all unresolved and future issues.

Limited Covenant

- In the ANC's Letter of Support, Mr. Davenport agreed to 4 specific measures in order to get ANC's support. In his discussions with The Lewis Party, he withdrew 3 measures and agreed to only add the height restriction in the covenant.
- This would restrict the building from expanding upwards, but not out.

No restriction on use of a currently residential property

- The support of the ANC and others was contingent on conditions that Mr. Davenport is no longer willing to fulfill.
- One measure in the ANC's Letter of Support was a covenant to the deed that binds future uses of the property by subsequent owners.

¹ At the September 17th hearing, Mr. Davenport testified under oath that he helped to bring the Bloomingdale Farmers Market (BFM) to the current location. See hearing recording at time 19:39-21:04. In Mr. Davenport's current status report, he stated that he didn't have any say in the Market's location. He was the Commissioner and he was instrumental in bringing the BFM to the area, which supports his business. This supports why residents have issues of trust with the BBC's owner.

- As outlined in his status report, Mr. Davenport is now unwilling to consider this use restriction.
- Based on this, the ANC's Letter of Support should no longer be considered as having "Great Weight" because the applicant misrepresented his intent on the issue regarding restricting future uses of the property.

Comprehensive Plan advocates protecting Mid-City neighborhoods

- We support the Office of Planning's (OP) recommendations to allow local flexibility of use conditions, which promotes more local food availability, walkable neighborhoods, and healthy urban environments where there is an increased demand for corner stores and home businesses that allow for sustainable living.
- The OP also recommended that local residential neighborhoods have the flexibility to allow for **limited commercial uses**.
- The Lewis Party asks the Zoning Commission to amend the use provisions to limit commercial uses and size in order to address quality of life issues such as peace, quiet, order, parking, and to protect the neighborhood's character.

C1 will give applicant what he says he wants

- As stated in Mr. Davenports status report, if the property use is going to remain at "the current low density, residential and commercial mixed-use that currently exist and has continuously existed for over 120 years", then it does not need to be rezoned to C2A.
- OP's Final Report, on page 2, section III, AREA DESCRIPTION states that "The majority of the Square is zoned R-4 and generally consists of two-story single family, flat, and apartment uses".
- Page 3 of the OP Report states: "In a C-2-A zone, a range of other commercial uses are permitted." Footnote 6 also states that "Restaurants are first permitted in C-1 zone".
- Mr. Davenport has recently agreed to restrict only the height of the property if the Lewis Party withdrew. C1 zoning would restrict the height, commercial uses and help to preserve the residential character of the neighborhood.

Future Use

- Under Non-Conforming Uses, the BBC use could continue as-is but would be controlled to a greater degree than uses normally permitted by the Zoning Regulations. If it is rezoned a C2A, there would be no control and the nearby residents would be affected by and have no say in future uses.

- Based on the testimony of the residents, ABRA ordered restricted hours ² for the BBC. Subsequently, Mr. Davenport tried to unsuccessfully (for the moment) change the hours.
- Since Mr. Davenport has withdrawn his offer to add any covenants other than the height restriction, the Commission must protect the rights of the nearby residents by making a specific text amendment or amend use provisions concerning the proposed map amendment that would restrict the future use to businesses with normal business hours that do not extend beyond the reasonable ABRA ordered hours.

The following addresses specific statements in Mr. Davenport's attachment to the 11/6/12 Progress Report:

Parking

- The city paid for the installation of the bike racks in front of the premises of the BBC.
- The public events that are held to promote the use of bicycles also brings revenue to Mr. Davenports business. The events draws large crowds and people drive their cars from all over the Washington metropolitan area to bring their broken bicycles to these events to get free repairs, which contribute to residential parking issues.
- The report is contrary to how he testified. Mr. Davenport was instrumental in bringing the BFM to the area, which is good for his business, but also contributes to our residential parking issues.

Neighborhood Communication

- The ANC's Letter of Support, based upon Mr. Davenport agreement, was presented at the ANC and Bloomingdale Civic Association (BCA) meetings. The basis for this letter of support by the community, ANC and BCA has now been withdrawn by Mr. Davenport and as stated above, is no longer entitled to "Great Weight."

Safety assertions not supported

- Mr. Davenport claims that the evening hours of his business contributes to public safety is unsupported. To the contrary, crime has increased and there is much more one-on-one crime. For example, below is a report from the daily listserv.

Excerpts from the Bloomingdale listserv email of 11/12/12, PSA 501 Reported Crimes:

RPT DATE: 11/07/2012

OFFENSE: Robbery

BLOCK: Unit B/O R ST NW

² The hours of operation inside the commercial space on the Lot shall run no later than 11pm during the week and 12am on the weekend. The hours of operation outside (e.g. sidewalk cafe) shall run no later than 9pm during the week and 10pm on the weekend.

LOCATION: Sidewalk

RPT DATE: 11/07/2012

OFFENSE: Burglary

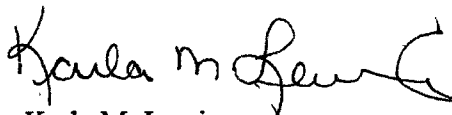
BLOCK: 1600 B/O 1ST ST NW

LOCATION: Residence/Home

Conclusion

The Lewis Party made every attempt to collaborate with Mr. Davenport regarding the issues surrounding rezoning the BBC. However, Mr. Davenport now refuses to consider adding use restrictions to the covenant after he initially agreed to do so. Based on past actions, residents cannot rely upon Mr. Davenport's assurance that he will not take contrary action later. Given this, we are looking to the Zoning Commission to protect the residents. We seek the support of the Commission and ask that the Commission consider the restrictive covenant previously submitted by the Lewis Party and amend the use provisions to limit commercial uses and size in order to address quality of life issues such as peace, quiet, order, parking, and protect the neighborhood's character. Rezoning the BBC for C1 zoning coupled with amendments to the use provisions will give Mr. Davenport what he says he wants and at the same time restrict the building height and protects the residents by restricting certain uses.

Sincerely,

A handwritten signature in black ink, appearing to read 'Karla M. Lewis', with a stylized flourish at the end.

Karla M. Lewis

On behalf of the Lewis Party